THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.22001 of 1997

Dated 13-02-2007

Between:
K.D.V. Prasad.

..... PETITIONER

AND

The Regional Manager, A.P.S.R.T.C. Prakasam Region, Ongole, Prakasam District & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.22001 of 1997

O R D E R:

The petitioner herein, a Conductor in the A.P.S.R.T.C., was issued a memo dated 03-06-1991 containing 8 charges. The charges include his having stolen a spare tray box containing various denominations worth Rs.18,906.25 ps. and to have utilized some of the ticket blocks of the stolen tray box. Further, some of the tickets in the stolen tray box were found in his possession. An enquiry was held and, thereafter, the petitioner was removed from service. Aggrieved thereby, he approached the Labour Court, Guntur in I.D.No.385 of 1992. Before the Labour Court, the petitioner filed a memo stating that the validity of the domestic enquiry need not be gone into. In view of the said memo, the only question which was required to be considered by the Labour Court was whether the charges levelled against the petitioner were held established on the evidence on record and as to whether the punishment imposed was disproportionate to the charges held established. The Labour Court, on a detailed analysis of the evidence on record, came to the conclusion that all the charges levelled against the petitioner-workman were established. On the quantum of punishment, the Labour Court held that since the charges were grave and serious in nature, it could not be said that the punishment of removal from service was disproportionate to the misconduct and that the punishment of removal from service was a just punishment.

Sri M.Ravindranath Reddy, learned counsel for the petitioner, would submit that the petitioner was not given reasonable opportunity of defending himself in a departmental enquiry, inasmuch as he was

not supplied with some of the documents, which were specifically asked for by him. Learned counsel would submit that since one Sri M.Anjaiah, who was also issued a memo with identical charges, was reinstated into service, the petitioner had been discriminated against by removing him from service. Learned counsel would submit that the punishment imposed is disproportionate to the charges held established and the petitioner should have, at least, been directed to be reinstated into service.

I am afraid I cannot agree. With regards denial of reasonable opportunity to the petitioner, it is required to be noted that he himself had filed a memo stating that the validity of the domestic enquiry was not under challenge. The Tribunals/Labour Courts, ordinarily, examine the questions of violation of principles of natural justice, and denial of reasonable opportunity to a workman during the course of the enquiry, while deciding the preliminary issue regarding the validity of the domestic enquiry. Since the petitioner himself had filed a memo and had chosen not to question the validity of the domestic enquiry, it is not open for him to now contend that he has been denied reasonable opportunity of defending himself. This contention is required to be rejected.

On the contention regarding discrimination in punishment, as has been rightly held by the Labour Court, the charges levelled against the petitioner are grave and serious. The mere fact that another employee had been reinstated into service does not necessitate the petitioner being given a similar benefit when the charges are serious. While the Corporation may have been well advised to have imposed a similar punishment on the other employee, parity in treatment cannot be sought by an employee, who was involved in stealing of a trayful of tickets and to have used some of the tickets from the tray, while issuing tickets to passengers in the

bus later. Not only has the property of the A.P.S.R.T.C. been stolen, but the said stolen tickets have also been utilised by the petitioner resulting in loss to the Corporation of the amounts legitimately due to it. Since these charges were held established, punishment of removal from service is justified. The mere fact that another employee was not imposed the same punishment does not necessitate a similar benefit being given in favour of the petitioner also. The contention that the punishment is disproportionate must also be rejected.

The Labour Court, on going through the charges, had rightly come to the conclusion that for the charges held established, which were grave and serious in nature, punishment of removal from service was a just punishment. In any event, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India, does not sit in appeal over the conclusions arrived at by the Labour Courts/Tribunals with regards nature of punishment imposed on a delinquent employee nor, would, this Court, ordinarily substitute the punishment imposed by the Labour Court with another. It is only when the punishment imposed is one which cannot be imposed at all or is one which shocks the conscience of this Court, would there be any justification in interfering with the matter. In the present case, the charges held established against the petitioner, undoubtedly, justify the imposition of punishment of removal from service.

The Writ Petition is misconceived and is accordingly dismissed. No order as to costs.

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13-02-2007

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